Kaiserslautern Legal Services Center
Legal Assistance Information

German Landlord-Tenant Law

This information paper provides basic information only, and is not intended to serve as a substitute for a personal consultation with a Legal Assistance Attorney. For an appointment to see an attorney, dial DSN 483-8848 or Civilian 0631-411-8848.

I. INTRODUCTION

a. Effective September 1, 2001 tremendous changes have taken place in the area of the German Landlord-Tenant Law. Tenants living on the economy will be faced with rental agreements subject to German law and, therefore, they should know some of the basic German rules that govern the landlord-tenant relationship. Furthermore, the legislature modernized the German Civil Code ("Bürgerliches Gesetzbuch" – BGB), effective as of January 1, 2002.

b. Tenants, looking for private rentals, should seek assistance from the Housing Referral Office (HRO). Furthermore, they need to familiarize themselves with the area to consider their individual needs. For example, for tenants with children, it may be good to know where the School Bus Transportation routes are.

c. The HRO keeps lists of landlords that frequently caused trouble or proved to be unreliable landlords in the past and it informs the tenant about possible allowances, *e.g.*, Moving in Housing Allowances (MIHA). Furthermore, the HRO might be able to convince the landlord to use the official HRO rental agreement or at least talk to the landlord about possible modifications in light of the tenant's special situation. One of the primary aims is to make a PCS termination clause part of the agreement.

II. THE RENTAL AGREEMENT

A. Sources of Law

a. Generally the landlord presents a preprinted, standard rental agreement to the tenant. An exception applies where the USAREUR or USAFE HRO rental agreement is used. However, any contract not individually negotiated but presented in a preprinted form will be scrutinized by the rules governing the general terms and conditions of trade ("Allgemeine Geschäftsbedingungen" - AGB) as codified in § 305 - § 310 BGB. In a preprinted, standard rental agreement any inconsistencies or ambiguities are construed against the party that presented the preprinted contract and are settled in the other party's favor (§ 305c para. 2 BGB).

b. Basically the parties are free to define their relationship by whatever they agree upon. The courts will uphold their agreement. If the parties fail to address a specific aspect of their rental relationship, the provisions provided for in the applicable law will be applied. The legislature has passed legislation to ensure a minimum of arm's length negotiations and fair dealings as well as to balance the bargaining positions of the parties. Those provisions are mandatory and, therefore, have to be obeyed by all parties. Any clauses to the contrary are voided by law. The provisions provided for in the applicable law will supersede those clauses.

c. § 535 BGB contains a simple statement, making it clear that only temporary usage in consideration for some compensation, *e.g.*, monetary one or services performed, is considered to be a lease under German law. § 535 BGB reads as follows: "CONTENTS AND CONTRACTUAL MAIN OBLIGATIONS OF THE RENTAL AGREEMENT. (1) By the lease contract the landlord shall be obligated to grant usage of the leased object during the term of the lease to the tenant. The landlord shall turn over the leased object in suitable condition for the contracted usage to the tenant and shall keep it in such condition during the lease. He shall be obligated to bear the encumbrances on the leased object. (2) The tenant is obligated to pay the agreed upon rent to the landlord."

d. The German rental law provisions in the BGB are contained in the §§ 535 - 580a BGB. They also set forth guidelines for rent increases. However, utilities and operating costs are addressed in the BetrKV ("Betriebskostenverordnung", Utilities and Operating Costs Ordinance), while the Second Computation Ordinance (II. BV, "Zweite Berechnungsverordnung") sets forth additional mainly administrative specifications for landlords.

B. Types of Contract

1. Fixed Term Lease

a. German rental law distinguishes two types of contracts: fixed term lease contracts and indefinite term lease contracts.

b. A fixed term lease contract should be avoided. It only runs for a specific fixed-term and cannot be terminated by the tenant (but by the landlord for a reason) during the fixed-term. Generally it allows the landlord to easily evict the tenant once the contract runs out. It does not serve the U.S. Forces personnel's interests. Despite an unexpected early PCS move or an order to move into government housing, the soldier will not be able to get out-of the contract but remain responsible for his/her obligations under the contract.

c. A fixed term lease can become an indefinite term lease by operation of law if the Landlord lets the tenant stay on after the fixed-term is up or if the Landlord fails to provide upfront in writing a reason why there is a fixed-term (§ 575 BGB). Only one of the following three reasons can justify a fixed-term: (i) personal need, (ii) planed major renovation and improvements, (iii) to be leased to an employee

2. Indefinite Term Lease

a. The indefinite term lease constitutes the most common residential lease type in Germany. If no specific mention is made, the contract runs for an indefinite period of time, *i.e.*, until one party terminates it.

b. Often the landlord seeks assurances that the tenant will not move out soon again. Therefore, the contract may contain a standard clause or an individual clause, excluding the right to terminate temporarily (Börstinghaus NJW 2009, 1391). In standard contracts a 2-year suspension of termination rights has been upheld (BGH NJW 2004, 3117) whereas a 5-year one

was found to be void (BGH NJW 2005, 1574), even in case of a staggered rent (BGH NJW 2006, 1059). However, by individual agreement a 5-year period may be imposed (BGH NJW 2004, 1448; BGH NJW 2011, 59). In a standard contract the courts even upheld a clause establishing a one-sided 4-year suspension of the tenant's termination right, provided the landlord had opted for a staggered rent (§ 557a BGB) and only if the termination was possible towards the end of the 4-year period and not after the 4 years since the signing of the contract (BGH NJW 2006, 1056; BGH NJW 2009, 353; BGH NJW 2011, 597; BGH NJW-Spezial 2011, 162 = BeckRS 2011, 00120).

c. Any clause seeking to exclude the termination right for more than one year has to be in writing (BGH NJW 2007, 1742).

d. Yet, only the right to an ordinary termination can be suspended. The rights to an extraordinary termination (effective immediately) or the right to an extraordinary termination with statutory notice period cannot be suspended. Consequently, any such clause needs to be drafted carefully, particularly since the courts lately tend to interpret the termination clause in favor of the landlord, no longer requiring an explicit reservation but finding an implied extraordinary termination right sufficient (BGH NJW 2006, 1056 and BGB NJW 2006, 1059).

e. Note, such clauses suspending the (ordinary) termination rights temporarily do not turn an indefinite term lease into a fixed term lease. Nevertheless, it is recommendable to refrain from such clauses because they defeat the purpose of an indefinite term lease to a certain extent. If the tenant seeks assurances that the landlord will not terminate the lease because of unexpected personal need, he/she may try to get the landlord to agree to a one-sided temporary suspension of (ordinary) termination rights, where the landlord only refrains from terminating the lease due to personal need.

III. FORMATION

A. Conclusion of Contract

1. Meeting of the Minds

In order to form a contract, there must be a meeting of the minds. A lease is concluded, when the parties agree upon the following essential parts:

- leased object (size & accessories)
- purpose of the lease (residential or business)
- duration of the lease (fixed-term or indefinite)
- consideration. It is sufficient if the parties agree on monetary compensation as consideration. It is not necessary to agree to a specific amount. In such a case the amount will be determined in accordance with the applicable laws.

2. Form

a. Oral rental agreements are valid and fully enforceable. Only a fixed-term lease in excess of 1 year must be in writing (§ 550 BGB). But even if that requirement is violated, it will not invalid the oral agreement. Instead the lease will be considered to be merely for an indefinite term. The contract does not to be in the German language in order to be valid (Palandt-Ellenberger, BGB, 71st Ed. 2012, § 126 BGB No. 2; OLG Brandenburg NJW-RR 1999-543).

b. Generally speaking a written agreement is preferable. Oral stipulations may be forgotten, denied or remembered differently by the other party. Only a written agreement enables the parties to adequately prove the terms of the agreement and to clarify each other's obligations thereunder. All terms should be reduced to writing and have to be personally signed by the parties or their duly authorized representatives. Where more than one party lives in the house, rules of the house ("Hausordnung") are incorporated into the rental agreement by reference. These create further obligations. Whoever alleges a verbal modification of the written rental agreement, bears the burden of proof (BGH NJW 2006, 138).

c. Yet, there are also advantages to an oral agreement because those are usually very short. The landlord does not subject the tenant to all the detailed conditions usually contained in a written agreement. The tenant's obligations are less burdensome. Furthermore, the codified rental law provisions apply, which are otherwise often modified in a written agreement to the landlord's favor, whenever the landlord presents the standard preprinted contract form.

3. Parties to a Rental Agreement

a. Privity of contract exists only between the contracting parties. Nevertheless, a tenant is generally free to have his/her friend, fiancé(e) or spouse move in without the landlord's consent. Such a person is not a party to the rental agreement and, therefore, will not assume the rent obligation, unless the person becomes a contracting party as well. The landlord owes the contractual duties only to the contracting party and that party remains liable for the rent - until a termination becomes effective - even if that party moves out and his/her partner remains in the premises, *e.g.*, in case of a separation or divorce.

b. The moving-in party acquires an inherent possessory and usage right in respect to the apartment. The landlord owes an obligation to protect all members of a household against injuries. However, this obligation does not apply to mere visitors. Yet, the tenant can have visitors of both sexes without nighttime limitations. Furthermore, he/she may have visitors stay as long as 2 months. Up to that time, it would not be considered a sublease, which by contrast, would require approval by a landlord (§ 540 BGB).

c. Where two tenants enter in a rental agreement with the landlord, both are also jointly and severally responsible for the performance of the contractual duties. Without a power of attorney no spouse can execute a rental agreement on behalf of the other spouse. However, a rental agreement usually contains a clause empowering one spouse to act on behalf of the other

spouse, *e.g.*, to receive correspondence. The landlord normally favors to have both spouses sign the agreement so the landlord gets two debtors and avoids any problem with respect to the landlord's lien.

d. If one of the co-tenants intends to move out, that tenant should obtain a rent release from the landlord. The remaining co-tenant has to agree (impliedly or expressly) to it as well, otherwise the other tenant can exercise a termination right. It is best to enter into a written three-party agreement, in which one tenant is released from his contractual obligations (BGH NJW 2005, 2620).

e. As of September 1, 2009, the HausratsVO (Household Goods Regulation) has been incorporated into the BGB and the new FamFG. According to § 1568a and § 1568b BGB and § 204 FamFG a judge may award as part of an upcoming or pending divorce procedure one spouse's property to the other spouse upon request by one spouse. Where there are children, the family home will normally be awarded to the custodial parent in case of a separation or pending divorce.

4. Contract Approval

a. It is advisable to add a clause in the rental agreement, which makes it dependent on the Housing Office's approval. That way housing could review the contract before the tenant obligates himself to any commitment there under.

b. The USAFE Form 291a uses the following wording:

- This contract is not authorized until processed and countersigned by the Housing Referral Office (HRO). This HRO is not a party to the agreement, but is merely acknowledging its existence and certifying that the facility has been accepted for occupancy by personnel assigned to this base.
- Dieser Mitvertrag wird erst dann rechtskräftig, wenn er vom zuständigen Offizier des Wohnungsamtes bearbeitet und unterschrieben ist. Das Wohnungsamt ist keine Mietpartei des Vertrages; es wird lediglich bestätigt, daß ein Mietvertrag vorliegt und die Wohnung für Standortpersonal zum Bezug genehmigt worden ist.

B. <u>Broker/Realtor</u>

a. A broker cannot charge more for his services than an amount equal to a 2-month net rent (§ 3 WoVermittG, Housing Brokerage Act). Broker's charges cannot be claimed if the broker or his employee also manages the apartment (§ 2 para. 2 No. 3 WoVermittG), unless it is a condominium management (BGH NJW 2004, 286; BGH NJW 2003, 1393; Palandt-Sprau, BGB, 71st Ed. 2012, § 652 BGB No. 59).

b. Release payments ("Abstandszahlungen") are illegal in residential leases (§ 4a WoVermittG), *i.e.*, any consideration given to the former tenant by the new tenant or someone

acting for him/her for clearing the apartment. An exception exists, where the new tenant promises to do the decorative repairs for the former tenant or pays that tenant's transportation costs. As long as the price is reasonable, the new tenant may buy or take over furniture and fixtures from the former tenant. If the price is unreasonable then such a takeover agreement ("Ablösevereinbarung") will be seen as a disguised release payment.

IV. OPERATIONAL ISSUES

A. Financial Obligations

a. A thorough study of the rental agreement is essential. The prospective tenant should not rush into the contract but consider his/her financial situation as well to see whether the desperately desired apartment is affordable. Once the rental agreement comes into effect, there are substantial costs involved. On the one hand there is a financial commitment, while on the other hand it may take a while before all the allowances go into effect to help the tenant pay for those costs.

- the rent as well as the utilities and operating costs have to be paid on a monthly basis
- the security deposit has to be paid during the first three months
- telephone set up fees

b. The rent is due in advance no later than the third working day of the month (§ 556b BGB). By definition Sundays and official German holidays are no working days (§ 193 BGB). For the purpose of rent payments, Saturdays are not considered working days neither because all banks are closed on Saturdays (BGH NJW 2010, 2879). The term "on the landlord's account" means that the money must be posted at the landlord's bank, not the German Post Office. The burden of proof is fully on the tenant to show he/she paid the rent on time. Absent an agreement to the contrary, European banks are supposed to complete a bank-to-bank Euro-money transfer into the creditor's account within 3 banking days and non-Euro money transfers within the European Union within 5 banking days (§ 675s BGB). As of January 1, 2012, Euro-money transfers are to be completed at the end of the banking day, following the initiation of the transfer. Note, being consistently late on rent payments, entitles the landlord to terminate the rental agreement.

c. Provided the tenant informed the landlord in writing one month in advance, he/she can set off any claim for damages against the rent due. If the landlord files for bankruptcy, the rent has to be paid to the administrator of the landlord's assets upon proper notification of the bankruptcy procedure.

d. According to Art. 60 para. 5b SA, members with SOFA status are exempted from radio and television usage fees, collected by the GEZ ("Gebühreneinzugszentrale"- Central Fee Collection Agency). Furthermore, according to Art. 6 para. 1 SA, they are also exempt from

German regulations in the field of registration of residence ("Meldewesen") and aliens control ("Ausländerpolizei"), except with respect to registration in hotels and similar establishments ("Beherbergungsstätten")

1. Utilities and Operating Costs

a. The tenant will have to pay only for those utilities and operating costs mentioned in the rental agreement. However, the landlord may put a clause in the agreement referring to § 2 BetrKV (§ 556 para. 1BGB). § 2 BetrKV is an umbrella provision that lists exclusively all applicable utilities and operational costs in seventeen categories:

(01) public charges (*e.g.*, real estate taxes)
(02) water supply costs (*e.g.*, costs for exchanging the meter, service fees)
(03) drainage costs, sewage costs (*e.g.*, rainwater)
(04) central heating costs (*e.g.*, costs involving emission checks, service fees)
(05) hot water costs (*e.g.*, service fees)
(06) costs for combined heating and hot water systems
(07) lift associated costs (*e.g.*, electricity costs, service fees)
(08) garbage and street cleaning fees
(09) building cleaning costs for common areas and vermin control fees
(10) gardening costs
(11) costs for common area lights
(12) chimney sweeping fees
(13) insurance premiums (*e.g.*, property and liability insurance)
(14) janitor costs (Costs (2) to (10) and (16) cannot be charged separately if the janitor performs these services)
(15) cots for a common antenna, TV/internet cable, or a satellite dish system
(16) laundry room costs (*e.g.*, electricity costs, service fees)
(17) miscellaneous fees (*e.g.*, costs for servicing a sauna or swimming pool, maintenance of smoke detectors [LG Magdeburg NJW 2012, 544],…)

b. Tax relief is generally not available on utility bills. Individuals are not entitled to tax relief in their own name. According to Art. 67, 68 SA only an agent of the U.S. Forces can make tax-free purchases, *e.g.*, Moral Welfare Recreation Funds (MWRF). Yet, in the KMC area such a VAT-relief program has been set up as far as electricity, water, and gas are concerned.

c. Utilities are just advance payments. Consequently, they are only estimates of how much it will cost. The landlord rarely agrees to a fixed amount. However, the landlord will have to present to the tenant a detailed list of the overall actual utility costs, unless the parties agreed on a fixed amount. Such a list has to be presented within 12 months following the (annual) billing cycle, otherwise the landlord is prevented from asking for additional amounts to cover the actual annual utility and operational costs (§ 556 para. 3 BGB) but he is free to correct the "final" utility bill within that 12-month period (BGH NJW 2011, 843). Likewise the tenant has 12 months, following the receipt of the landlord's list on utility and operational costs to present any objections he/she might have or else be loose the right to protest. For verification of the detailed

annual utility list, the landlord does not have to present copies of the actual underlying bills to the tenant even if the tenant offers to pay for these, but it is sufficient if the landlord allows the tenant to look at the original bills in his presence (BGH NJW 2006, 1419). Yet, lower courts allow the tenant to scan/copy the documents (AG München NJW 2010, 78).

d. Depending on whether there is a plus or an amount still owed on the annual utilities and operational cost bill, the tenant will either have to pay the rest of the amount owed or be entitled to a reimbursement of any surplus. Based on the (correct) utility and operational costs for the past billing cycle, both parties can demand a modification of the advance payments (BGH NJW 2012, 2186). If there had been a surplus, the tenant may demand smaller monthly advance payments, while the landlord can demand higher monthly advance payments if there had been a debt. Should the tenant fail to comply and fall substantially into arrears on the adjusted advance payments on utilities, the landlord can terminate the rental agreement (BGH NJW 2012, 3089). The courts generally allow the annual bill to be based either on the consumption costs for that period ("Verbrauchsprinzip", "Zeitabgrenzungsprinzip", "Leistungsprinzip") or on the actual costs/bills paid in that period ("Abflußprinzip", "Abrechnung nach Rechnungen", "Ausgabenabrechnung") (BGH NJW 2008, 1300) but for the heating costs which must follow the below rules (BGH NJW-Spezial 2012, 226; BGH NJW 2012, 1434).

e. A detailed list of the overall actual utility costs will also have to provide information concerning the exact manner in which those costs are split between the tenant's actual calculations, and credit for the tenant's advance payments. The landlord can base the apportioned share of the overall costs on actual consumption or the size of the apartment. It can only be based on the number of persons living in the apartment if specifically agreed thereon. In some instances there are also special regulations the landlord has to adhere to, *e.g.*, the HeizKVO ("Heizkostenverordnung" - Regulation Concerning the Computation of Heating and Hot Water Costs) requires that at least 50%, up to a maximum of 70%, of the total heating costs are computed on the basis of measured consumption (§ 7 HeizKVO). Wireless transmission technology may be installed (§ 554 BGB, § 4 HeizKVO, BGH NJW 2011, 3514). Furthermore, heating costs for commercial and residential leases need to be kept separate (§ 5 para. 2 HeizKVO). Watch out for clauses in the lease authorizing the landlord to choose a calculation method.

f. If the landlord fails to present a detailed list, the tenant has a right of retention (if the lease continues) or can ask his advance payments back, limited to periods for which a right of retention would have not been possible (if the lease has been terminated); at which point the landlord may then finally present his/her detailed list, (being prevented from asking for any additional money) (BGH NJW 2012, 3508; BGH NJW 2006, 2552; BGH NJW 2005, 1499).

g. Any costs relating to meter readings during the year because of a change of tenants are not considered (reoccurring) utilities IAW § 556 para. 2 sentence 2 BGB but (one time) administrative costs. Unless otherwise agreed in the rental agreement such expenses have to be borne by the landlord alone, even if the law requires him to initiate the reading, *e.g.*, § 9b HeizKVO (BGH NJW 2008, 575).

h. Example: Three tenants live in an apartment house with a total floor space of 300 square meters, every apartment having the same size (100 sq. meters). The measured heat consumption in the apartment is: 80 units for tenant A, 95 units for tenant B, and 105 units for tenant C. The heating costs for the year are € 5,000 and the landlord calls for the maximum of 70% of measured consumption.

Basic heating cost portion:
30% of € 5,000 = € 1,500
€ 1,500 : 300 (sq. meters) = 5 €/sq. meter
5 €/sq. meter x 100 (sq. meters) = € 500

measured consumption portion of the heating costs:
70% of € 5,000 = € 3,500
€ 3.500 : 280 (units) = 12.50 €/unit
12.50 €/unit x 80 units (for tenant A) = € 1,000

annual heating bill for tenant A in this case = € 1,500
(€ 1,500 : 12 (months) = € 125 would have been a good monthly utility advance payment for the heating costs in tenant's A case)

i. A fixed flat rate for utility costs might be preferable to the tenant, if he/she is not used to the high German energy costs and the fresh water preserving approach. On the other hand, if the tenant already knows he/she will be absent from home most of the time a flat rate is less advisable, *e.g.*, deployed single soldier. Watch out for clauses in the lease reserving the right to increase the "fixed" flat rate. The tenant, however, has no right to lower the flat rate unless the tenant demonstrates that the overall total utility costs are unreasonably high (BGH NJW 2012, 303).

j. At the end of year the tenant should read the meters for water, electricity, and gas and compare his/her readings later on with the ones on the annual utilities bill in order to verify that the correct reading has been done. Often the public utility companies rely on telephonic transmittal of the readings and only check the meter when the tenant moves out. If the reading has been done incorrectly before, the tenant will have to pay the balance at that time. Furthermore, the tenant might want to try to switch off electricity to his/her quarters temporarily in order to find out if any electricity for common light areas is run through his/her meter.

k. If the landlord fails to forward the utility payments to the supply company, the company has the right to terminate the contract with the landlord, leaving the tenant without any such supplies. The court held that such action does not constitute an interference with the tenant's possessory rights to the rental unit because the tenant could simply tray to enter into a (new) direct contract with the supply company (LG Saarbrücken NJW-Special 2009, 467, BGH NJW-Special 2009, 466).

l. As of October 1, 2007 the Energy Savings Regulation ("Energieeinsparverordnung", EnEV), fully effective as of January 2009, obligates the landlord to obtain for presentation to any

new tenant a so-called energy pass, identifying the heating consumption costs (heating, warm water,…) of the premises, based on the past three months of actual or calculated consumption. The pass will be valid for 10 years (§ 16 para. 6 EnEV).

m. Since 2005 the German Tenants' Association ("Deutscher Mieterbund, DMB") publishes annually an average utility costs chart ("Betriebskostenspiegel") for Germany. Even though regional differences exist, it nevertheless provides a good indicator as to the reasonableness of operational costs although the published figures are only average costs, concealing regional differences. In order to compare your costs, just divide the utility cost by 12 (months) to arrive at the monthly rate and then divide that figure by the square meters of your apartment, *e.g.*, if a tenant pays €239.40 per year in real estate taxes for his 105 sq. meters apartment then the following calculation applies: €239,40 (real estate taxes per year) : 12 (months) = €19.95 : 105 sq. meters (size of the apartment) = €0.19 (average figure according to the utility costs chart 2009).

§ 2 BetrKV		**2009**	**2008**	**2007**	**2006**	**2005**
(01)	real estate taxes	€0,19	€0,19	€0,19	€0,20	€0,21
(02)	water supply costs	€0,41	€0,39	€0,40	€0,39	€0,39
(03)	sewage costs					
(04)	central heating costs	€0,84	€0,90	€0,77	€0,85	€0,76
(05)	hot water costs	€0,25	€0,28	€0,22	€0,22	€0,19
(06)	costs for combined heating and hot water systems					
(07)	lift associated costs	€0,25	€0,11	€0,14	€0,16	€0,18
(08)	street cleaning fees	€0,07	€0,05	€0,05	€0,05	€0,05
	garbage fees	€0,20	€0,19	€0,19	€0,18	€0,18
(09)	building cleaning costs	€0,15	€0,14	€0,15	€0,14	€0,13
(10)	gardening costs	€0,10	€0,09	€0,09	€0,09	€0,10
(11)	costs for common area lights	€0,05	€0,05	€0,05	€0,04	€0,05
(12)	chimney sweeping fees	€0,04	€0,04	€0,04	€0,03	€0,04
(13)	insurance premiums (*e.g.*, property and liability insurance)	€0,14	€0,13	€0,12	€0,12	€0,13
(14)	janitor costs	€0,18	€0,19	€0,20	€0,20	€0,20
(15)	cots for a common antenna, TV/internet cable, or a satellite dish system	€0,13	€0,11	€0,12	€0,10	€0,09
(16)	laundry room costs					
(17)	miscellaneous fees	€0,06	€0,05	€0,05	€0,09	€0,04

		€3,06	€2,91	€2,78	€2,86	€2,74
x 12 months =		€36,72	€34,92	€33,36	€34,32	€32,88
x sq. meters of apt						

2. Rental Security Deposits

a. Under German law, landlords may ask for a deposit not to exceed three-months' net rent (§ 551 BGB). However, the tenant has the right to make the rental security deposit payments over a three-month period in three equal monthly shares. If the landlord and the tenant agree, instead of paying the rental security deposit into an account, the tenant may present a bank guarantee to the landlord. A good compromise is usually to put the security deposit in a joint savings account which can only be touched with both the landlord's and the tenant's consent.

b. The landlord has to keep the rental security deposit apart from his/her other assets in an interest-accruing way. It is recommendable to put a clause in the rental agreement requiring the landlord to provide proof he/she complied with these requirements or else the tenant should get the right to withhold his rental payments until such proof is provided. The tenant may also refuse to pay the rental security deposit until the landlord names such a safe savings account into which the rental security payment(s) can be deposited directly (BGH NJW 2011, 59).

c. The interest drawn by the deposit accrues to the tenant annually and increases the rental security deposit. The landlord is not allowed to subtract any amount for expenses he/she incurs.

d. A higher deposit may be charged if the tenant needs to make constructional changes to the apartment to make it fit for a handicapped person (§ 554a BGB). However, the tenant has to restore the original condition of the apartment once he/she moves out.

e. Unless the landlord agrees, the tenant may not set off the rental security deposit against any rent payments due. An exception may apply in case of the landlord's bankruptcy (see also insolvency and judicial receivership, below). By contrast, the landlord may use the rental security deposit if the tenant defaults on his/her rent. Thereafter, the tenant has to settle the rental security account, again. Yet, the landlord cannot set-off the rental security deposit against any claim unrelated to the rental agreement (BGH NJW 2012, 3300).

f. A tenant is entitled to a return of the deposit only after the premises have been turned back to the landlord. However, the landlord has been afforded a reasonable period of time - usually 6 to 12 months(!) - to examine possible claims against the tenant, to include the final utility bill (BGH NJW 2006, 1422). The moving out protocol should help to speed up this process and lead to at least a partial repayment of the rental security deposit; interest remains accruing on the portion still withheld. In the worst-case scenario the actual costs are settled in an annual bill, which must be presented within a 12-month period following the end of the (annual) billing year. Contractually shorter periods can be agreed upon. It all depends on a case-by-case basis since the legislature intentionally did not specifically regulate a statutory repayment period for the rental security deposit.

g. If the premises have been sold, the new owner/landlord has to pay back the rental security deposit to the tenant, even if the former owner/landlord did not transfer it to him/her (§ 566a BGB). In any case, the former owner remains liable as a secondary debtor if the tenant

cannot obtain the rental security deposit from the new owner/landlord because the obligation to repay that money does not run with the land but is primarily considered a personal indebtedness between the original contracting parties. Watch out for any clauses in the agreement trying to limit the former owner's responsibility on the return of the rental deposit.

3. Decorative Repairs

a. The German term for decorative repairs is "Schönheitsreparaturen". Decorative repairs include any kind of painting and redecoration within the apartment (§ 28 para. 4 II BV). Absent an agreement to the contrary, the tenant is not responsible for the decorative repairs. It is the landlord's obligation to maintain the premises in an appropriate condition. However, most landlords insist to have a clause put into the rental agreement that stipulates that the tenant must carry out decorative repairs during the lease term.

b. For non-smokers decorative repairs in the house are recommended every 3 years with regard to the kitchen and bathrooms and every 5 to 7 years with regard to all other rooms. There is a tendency to increase these recommended periods to 5, 8 and 10 years (Beyer NJW 2008, 2065, 2067). However, the recommended decorative repair periods for smokers are shorter. There sometimes also exist renovation clauses and there are a lot of judgments around dealing with the single issue how such a clause needs to be phrased in order to be upheld in a court of law.

c. On June 23, 2004 the German Federal Supreme Court ("Bundesgerichtshof", BGH) held that decorative repair clauses obligating the tenant to perform these decorative repairs AT LEAST(!) ("mindestens") within a fixed period of time are void (BGH NJW 2004, 2586). A clause "EVERY 5 years" was found to be void, too (BGH NJW 2006, 1728). The same applied to a percentage clause if it stated a fixed period, expressly tightening the rules expressed in BGH NJW 2006, 1728 (BGH NJW 2006, 3778). On June 25, 2003 that court had already held that it violates § 307 para. 1 BGB if there are a renovation clause and a decorative repair clause in the same rental agreement and, therefore, voided both clauses in such an agreement (BGH NJW 2003, 3192). Yet, the clause "in der Regel … spätestens" (as a rule … at the latest) was found to be sufficient because it implies there might be exceptions to the rule (BGH NJW 2005, 3416).

d. Lately the court also addressed clauses, specifying or obligating the tenant to perform decorative repairs in a certain manner and found the term "Ausführungsart" (execution style) without any further specifications as being too vague (BGH NJW 2007, 1743). Furthermore, the landlord cannot encroach on the tenant's taste by demanding decorative repairs be made in a certain color (BGH NJW 2008, 2499; BGH NJW 2011, 514). The work has to be done in a proper and workman like manner but not necessarily by a professional workman (BGH BeckRS 2010, 16878).

e. In case of an invalid clause, the landlord cannot increase the rent, in order to be compensated for the decorative repairs expenses because - absent a valid clause - the landlord bears the costs for maintaining the property (§ 535 para. 1 BGB) (BGH NJW 2008, 2840). On the other hand, if the tenant performed decorative repairs without being obligated to do so, the

tenant has only 6 months to claim reimbursement or else that claim is time barred (§ 548 para. 2 BGB) (BGH NJW 2011, 1866).

f. Renovation costs are not owed under the USAREUR/USAFE rental agreements. Nevertheless, at the time of the moving out, the landlord may disguise the decorative repairs as renovation costs or vice versa. Decorative repairs require a flexible time schedule and similar rules apply to renovation costs because these costs are related (BGH NJW 2007, 3632; BGH NJW 2007, 3776).

g. In any case, cost estimates presented should be carefully reviewed for adequateness. Additionally, if the company does not actually carry out the work and the landlord wants to settle based on the estimate amounts, then a deduction might be argued because the landlord saves social dues and employer profit included in the estimate.

4. Rent Increases

a. A request for a rent increase has to be transmitted in a letter or via fax, email, SMS or the like ("Textform"). It may be based on one of the following aspects:

- after improvements to the living quarters, *e.g.*, renovation or energy conservation measures (§§ 559, 559b BGB). The annual assessment is limited to 11% of the overall costs.
- when operating expenses have increased (§ 560 BGB),
- where the parties have agreed on a staggered rent or an index rent in the first place (§§ 557a, 557b BGB), or
- to correspond to compensation for comparable living quarters (§§ 558 ff BGB), if:

(1) the rent a tenant has been paying is unchanged for at least 15 months
(2) the combined rent increase for a 3-year period must not exceed 20% (global rent increase limit) and
(3) the rent does not exceed the customary rents negotiated for an apartment of comparable type, size, furnishings, quality and location during the preceding 4 years in the community or in comparable communities for living space not subject to price control
    (i) rent survey, § 558c BGB or qualified rent survey, § 558d BGB. The later one must always be mentioned if it exists even if it is not used to justify the rent increase
    (ii) rent data base, § 558e BGB
    (iii) appraiser report, § 558a BGB
    (iv) naming three comparable apartments
(4) Please note, any rent increases based on § 559 - § 560 BGB will not be taken into consideration when determining a rent increase IAW § 558 BGB.

b. A qualified rent survey ("qualifizierter Mietspiegel") is prepared IAW recognized scientific rules and principles and has been recognized either by the county or by representatives of landlord and tenants organizations. It is presumed to contain the customary rents and shall be

updated every two years. However, the communities and counties are under no obligation to prepare a qualified rent survey.

c. Exorbitant rents are rents that exceed the "average market rent", *i.e.*, the customary charges paid in the community or in comparable communities for the residential lease of rooms of comparable kind, size, facilities, conditions and location. An excess of 20% or more, subject the landlord to criminal prosecution based on either § 5 WiStG ("Wirtschaftsstrafgesetz" - Economic Offenses Act) or in more severe cases, like an excess of more than 50%, on the usury provision § 291 StGB ("Strafgesetzbuch" - Criminal Code). Given these circumstances, the tenant has a claim for unjust enrichment (§ 812 BGB) against the landlord, limited to the actual overpayment of more than 20% with respect to the "average market rent".

d. The rent may, however, not be increased where the parties entered into a fixed term rental agreement, unless that right is expressly reserved in the agreement (§ 557 BGB).

e. The landlord is not allowed to terminate the rental agreement in order to increase the rent (§ 573 BGB). Instead the tenant has to expressly agree to the increase (§ 558b BGB). The tenant has until the end of the second month following the month in which he/she received the demand for a rent increase, to consent to the increase. There is no implied consent if the tenant does not respond to the landlord's request for a rent increase. After the deadline for consent has run out, the landlord has 3 months during which he/she can initiate an action for consent (§ 558b BGB). That issue will then be settled in court (BGH NZM 2005, 496).

f. Where a landlord's agent submits a demand for rent increase and fails to submit an original power of attorney, the tenant can immediately and for this reason reject the demand (§ 174 BGB); but this protest has to be made expressly and at once.

g. Example: The landlord sends a demand for a rent increase. If the demand for the rent increase is received on June 2nd, the tenant may consider the demand until August 31st. Upon lack of expressed consent, the landlord has until November 30th to bring a lawsuit against the tenant on this issue.

B. Disturbances

1. Landlord's Entry Right

a. The landlord has the right to inspect the apartment leased to the tenant but only if he/she gives reasonable advance notice of his/her wish and obtains prior approval from the tenant.

b. Only in emergency cases, the landlord may enter forcibly without permission. The landlord shall not retain a key to the apartment, unless the rental agreement states differently. However, it might be advisable to inform the landlord where he can obtain a key if he needs to enter the apartment in case of an emergency (Drasdo NJW-Spezial 2011, 161).

2. Rent Reductions

a. A landlord is responsible for maintenance, and for performing necessary repairs to assure that the premises meet minimum standards. In residential leases it is implied the landlord will maintain the premises fit for human habitability and will repair any condition that is dangerous or detrimental to safety or health. It is the principal duty of a landlord to maintain an apartment, including fixtures and common areas, in the condition specified in the rental agreement. If a landlord fails to do so and if the failure reduces the utility of the premises or detracts from it, the tenant may be authorized to reduce the rent (§ 536 BGB).

b. The amount of reduction depends on how much the defect destroys or diminishes the leased thing's fitness for the stipulated use. In a residential lease, the decisive factor is if and how far the habitability is affected by the defect. A rent reduction is not justified where

- only minor defects exist
- the tenant's behavior contributed to the defect
- the tenant lives with the defect without complaining about it (forfeiture)
- the leased thing is, at the time of handing over to the tenant, affected with a defect, known to the tenant, unless the landlord had promised to cure that defect (§ 536b BGB)

c. The tenant must report any defects to the landlord right away or else be subject to a claim for damages by the landlord if the defects became worse. However, if the defect arises during the lease, the tenant's continued rent payment may forfeit his/her rights to seek damages or reimbursement or an extraordinary termination, provided the landlord had reason to believe the tenant would not worry about the defect (§ 536c BGB, BGH NJW 2007, 147). If the tenant knows or should have known about the defects before he/she signed the lease, the tenant is prevented from exercising any remedial rights against the landlord (§ 536b BGB).

d. If the tenant knows about a defect, he/she should reserve his/her remedial rights when signing the contract by listing the defects and the remedial acts that need to be taken. It will be almost impossible for the tenant to receive any money back if he/she had the right to reduce the rent but did not make use of it (§ 814 BGB). However, if the defect still exists, he/she can exercise his/her remedial rights at any time (with respect to the future).

e. The tenant has the burden of proof to show the defect exists. Through the HRO an expert may be retained to investigate the alleged defect. The costs for the expert report can be set off against the rent due, if the report confirms the defects.

f. A rent reduction is only possible while and as long as the defect still exists. Yet, it is very difficult to properly assess the amount of rent reduction and an unjustified rent reduction may expose the tenant to an eviction because the tenant could have paid under protest or with reservation until there is a court ruling on the issue (BGH NJW 2012, 2882). Reducing the rent without revealing the proper reason/ kind of defect may also lead to a termination notice (BGH NJW Spezial 2011, 129, referring to default judgment of November 3, 2010, BGB VIII ZR

330/09). The following are some examples of defects triggering rent reductions and the percentage that the rent may be reduced:

- no heat during 4 months of the winter: 100%. The heating period usually runs from October through April.
- no hot water during two-thirds of a month: 25%
- no hot water: 10%
- unusable storage room in the cellar: 10%

g. If the landlord fails to cure the defect for which he/she is responsible, the tenant can:

- sue the landlord to compel him/her to perform the repair,
- do the repair and sue the landlord for the expense of the repair (§ 536a BGB), or
- contract to have the repair done and take the cost out-of the monthly rent, provided the tenant had given the landlord at least a month's advance notification

h. Where mold exists the air is either too moist due to the fact that the tenant does not ventilate enough fresh air or the walls are too cold because the constructor deviated from construction regulations. Frequently, the landlord and the tenant argue about the cause and most of the time both reasons contributed to it. Furthermore, even mold generally requires a warning notice before a termination notice effective immediately is possible (BGH NJW 2007, 2177).

i. The tenant must be able to run several electrical devices simultaneously without overburdening the electrical system (BGH NJW-RR 2010, 737).

j. The rent reduction shall be based on the gross rent (BGH NJW 2005, 1713; BGH NJW 2005, 2773; BGH NJW-Spezial 2011, 417 = BeckRS 2011, 10607).

Example:	contracted rent	reduced rent
gross rent	€ 630	€126 (20% of € 630 = € 126)
net rent	€ 450	€ 324 (450 - €126 = € 324)
utilities advance payments	€ 180	€ 180
gross rent	€ 630	
reduced amount (20%)	- € 126	
	€ 504	€ 504

	contracted rent	reduced rent
gross rent	€ 630	€ 504 (80% of € 630 = € 504)
net rent	€ 450	€ --- (€ 450 - € 504 = - € 54)
utilities advance payments	€ 180	€ 126 (€ 180 - € 54 = - € 126)
gross rent	€ 630	
reduced amount (80%)	- € 504	
	€ 126	€ 126 The landlord needs to credit € 126 to the tenant on the utilities bill.

3. Damages to the Premises

a. Normal wear and tear means deterioration that results from the intended use of a dwelling but does not include deterioration that results from negligence, carelessness, accident, or abuse of the tenant's household, by residents, pets, or by guests.

b. There is a rebuttable presumption that damages to an apartment were caused by the tenant. The tenant is responsible for any damages exceeding normal tear and wear (§ 538 BGB). The standards for what constitutes normal tear and wear are, however, often in dispute, *e.g.*, stains on walls, cigarette burns on the carpet or damage done to floors caused by pointed heels would not be considered normal wear and tear.

c. The tenant's only defenses are that the damages were preexisting or are consistent with normal tear and wear. The argument of preexisting damages can be best supported by a moving in protocol. Every crack, dent, chip and scratch needs to be pinned down in that list. It is the only way to make sure, that the defect, which will clearly be listed on the moving out protocol, can be identified as pre-existing.

4. Unpaid Rent

a. Under German law the landlord has the remedy of distress (§ 562 BGB). He/She may retain personal property of the tenant as security where there are unsettled bills but only in so far as legally feasible. In such a case the tenant is not allowed to remove the property out-of the premises without the landlord's consent.

b. Moreover, the landlord may choose whether he/she uses the security deposit as a set off or sues the tenant in a court of law for the unpaid balance or - if the requirements are met - terminates the lease.

5. Pet Policies

a. The tenant may keep small pets such as tropical fish or exotic birds. Yet, the landlord can specifically prohibit bigger animals like dogs and cats (Drasdo NJW Spezial 2006, 241; Blank NJW 2007, 729). While a standard contractual clause, prohibiting the keeping of any pets would be void, an individually negotiated clause of the same nature may be reduced to the legal limits (Blank NJW 2007, 729). In condominiums the pet policy is often also addressed in the rules of the house because these regulate the usage of common areas (OLG Saarbrücken NJW 2007, 779). If the landlord is still undecided on that issue the internet page http://www.canismajor.com/dog/apart.html offers to dog owners some advice and a strategy to follow:

"Those who rent an apartment must be prepared to abide by the conditions as set down by the owner of the property. If this means no pets because some pet owners in the past have caused trouble, the pet owner has three options: give up the pet, give up the apartment, or change the landlord's mind. Those who choose the third approach have their work cut out. Most important is to keep cool, gather information to provide the benefits of pets to people

and to a stable environment in the apartment building or complex, and point out that responsible pet owners are likely to be responsible tenants as well. Provide documents to back up your contention and your willingness to compromise. A sample pet policy for the landlord's consideration, a pet resume, references, and a schedule of pet care that shows your efforts to be a responsible owner are necessary. The schedule can include everything from regular veterinary visits to grooming appointments, daily walks, training lessons, participation in pet-facilitated therapy or education programs - in short anything you do with the dog that proves your sense of responsibility. Be willing to concede a point our two. For example, allow the landlord to check up on the apartment or the pet occasionally, make sure Rambo is neutered, and don't let Fifi urinate in the flowerbed. If the landlord wants to see an obedience class certificate, either go to a class, [take the AKC Canine Good Citizen test,] or prove that the dog obeys to simple commands he would learn in class. Vow to keep the apartment free of fleas and promise you'll never allow Ranger outside without a leash. Ever, even he has an advanced obedience title."

b. All German States have strict rules concerning dangerous dogs. Some dogs are not even allowed to be kept in Germany, *e.g.*, Pit Bull, Bandog, American Staffordshire Bullterrier, Staffordshire Bullterrier, Tosa-Ina are considered illegal.

c. Anyway, all dogs need to be registered and for those who keep a dog in Germany, it might be a good idea to get a dog liability insurance. Under German law there exists strict liability concerning damage caused by dogs and other domestic animals (§ 833 and § 834 BGB). Exemptions to that rule are very limited. There is no first bite is free rule. Every German keeps his/her dog insured because of the legal consequences of the strict liability. *E.g.*, a dog owner would be fully liable where the dog runs loose, crosses a street and the driver of a car while avoiding to run over the dog smashes his/her vehicle against a tree.

d. There is a dog tax, collected by the municipalities, from which members with SOFA status are exempted as long as they do not hold German citizenship or have become ordinary residents (Art. X para. 4 SOFA and Art. 68 para. 4 SA).

6. Insurances

a. Personal (and tenant's) liability insurance is a common form of protection available in Germany. If you negligently injure someone or damage someone's property, the insurance will handle that person's claims against you, provided you did not act in gross negligence or intentionally. When you consider such insurance, you may want to make sure it also covers your liability as a tenant, *e.g.*, someone falls in front of your house during wintertime and claims you failed to clean the sidewalk.

b. In Germany the court fees and attorney costs are regulated by Statutes. The aim is to kept the legal costs affordable because the loosing party will have to pay all court fees and all attorney costs, to include the one of the opposing (winning) party. Consequently, insurances offer protection in the form of the so-called Legal Expenses Insurance ("Rechtsschutzversicherung"). Yet, they often exclude lawsuits in the area of family law or landlord tenant law, requiring an extra fee being paid for coverage for these more costly areas of law. Instead the Tenant Protection Association ("Mieterschutzverein") provides legal counseling and in court representation in consideration of an annual membership fee, provided you have been a member before the problem arose. Watch out for automatic renewal clauses in these contracts and long termination periods.

c. Animal liability insurance, discussed above under pet policies, and household goods insurance are two insurances also widely available in Germany.

7. **Miscellaneous**

In condominiums the other owners/tenants cannot set up their own individual video surveillance for their property if their equipment monitors common law areas as well (OLG Düsseldorf NJW 2007, 780). However, it is possible to have a device installed for a short-term monitoring (no recording), activated whenever someone rings your outside bell (BGH NJW Spezial 2011, 450 = BeckRS 2011, 13877).

C. Substitutions

1. Ordinary Sale of the Premises

a. The sale of the premises does not terminate the residential lease (§ 566 BGB). However, before a house is sold, a landlord can terminate the agreement under an extraordinary hardship provision, *i.e.*, only if he/she would lose out at least 20% in value due to the lease. By operation of law, the new owner assumes the position of the old landlord in the rental agreement.

b. The purchaser will only be considered the new owner once he/she is registered in the "Grundbuch" (Real Estate Register). The notarized purchase agreement does not make him/her the owner. Yet, the landlord can assign his rights to the buyer after having signed the notarized sales agreement (BGH NZW 1998, 146, Palandt-Weidenkaff, BGB, 71st Ed. 2012, § 566 BGB No. 6).

c. In case there is a usufruct with respect to the rented property, the beneficiary/ beneficiaries and not the owner will be the tenant's POC (BGH NJW 2006, 51; LG Verden NJW-RR 2009, 1095).

2. Foreclosure Sale of the Premises

a. Note, that in a foreclosure sale, the new owner has a one-time statutory termination right (§ 57a ZVG, "Zwangsversteigerungsgesetz", Foreclosure Sale Act; § 111 InsO ("Insolvenzordnung", Insolvency Act). He assumes the responsibility of the landlord under the rental agreement, to include the repayment of the rental security, even if never forwarded to the new owner by the former one (§ 44 and § 57 ZVG; see also BGH NJW 2012, 1353). Yet, before a foreclosure sale the court will ask the tenant to reveal any special agreements with the old landlord, affecting termination right (§ 57c ZVG).

b. Instead of a foreclosure, the landlord's creditors can attach the tenant's rent payments. In such a case the tenant becomes a third party debtor ("Drittschuldner") and by court order can only make his/her payments to the landlord's creditor thereafter until the debts are paid (§ 57b

ZVG). After having been properly serviced with such documents, any further rent payments to the landlord will no longer satisfy the rent obligation.

3. Insolvency and Judicial Receivership

a. Occasionally, the landlord has to file for insolvency. At that time the court appoints an official receiver ("Zwangsverwalter"). Such an administrator has the duty to manage and preserve the premises (§ 152 ZVG). He has to present the utility bills, even for periods before he was appointed. The tenant can also request from the administrator to put money aside in a separate interest accruing account as rental security deposit if the landlord failed to do so (BGH NJW 2009, 3505; BGH NJW-Spezial 2009, 354 referring to Judgment of March 11, 2009, BGH VIII ZR 184/08).

b. The administrator also has to repay the rental security deposit if the rental agreement terminates, provided the landlord kept it IAW the statutory and contractual requirements separate from this other assets. Based on § 47 InsO the tenant has a right of separation from the insolvency estate as far as his/her rental security is concerned. The tenant may also attach the administrator's right of recovery against the landlord which based on his appointment degree (§ 150 ZVG) and enforceable IAW § 883 ZPO because otherwise the tenant can no longer sue against the landlord directly for return of his/her rental security.

c. § 321 BGB allows the tenant to set off his/her rent payments against the (endangered or lost) rental security deposit if the landlord fails to provide proof of the legal security of the tenant's security deposit (BGH NWJ 2008, 1152; Schmidt-Futterer, Mietrecht, 10th Ed. 2011, § 551 BGB No. 74 referring to LG Mannheim NJW-RR 1991, 79 and Peter Derleder WM 1986, 39; see also AG Itzehoe WM 1986, 63). Yet, the tenant will have to keep the set-off amount available as security deposit (AG Ludwigshafen WM 1987, 350). But if the landlord violated the law and misappropriated the rental security, the tenant loses his/her set-off rights during the insolvency procedure (§ 96 para. 1 No. 1 InsO). The tenant simply becomes an ordinary creditor.

d. In cases where the landlord is a legal entity and violated the duty to keep the rental deposit separate from its other assets, resulting in a loss of the same, a tort claim directly against the manager/executive director may be considered for recovery of embezzled money based on § 823 para. 2 BGB and § 266 StGB since the corporate veil could be pierced (see also, Schmidt-Futterer, Mietrecht, 10th Ed. 2011, § 551 BGB No. 76; Altmeppen NJW 2007, 2657). In residential leases the landlord is criminally liable for taking proper care of your rental security deposit; in commercial/business leases this is only the case if the parties contractual stipulate such a duty (BGH NJW 2008, 1827).

e. Any claims against the administrator for violations of his duties are time-barred after 3 years after the judicial receivership ended, *e.g.*, final report, court order,… IAW the applicable provisions of the Statute of Limitations in the German Civil Code (BGB) (§ 62 InsO). However, once the administrator's appointment ends, he can no longer be sued for the return of the rental security (BGH NZM 2006, 312).

f. If an insolvency procedure is opened before the rental period starts, the rental agreement between the landlord and the tenant may become unenforceable contrary to the wording of § 108 InsO. However, in such a case the tenant has a claim for damages due to a breach of contract (BGH NJW 2007, 3715).

g. Unfortunately, it has been called into dispute whether the buyer of a house under insolvency becomes liable for the repayment of the tenant's rental security deposit like in an ordinary sale of the promises (Drasdo NJW Spezial 2008, 1).

V. GERMAN CUSTOMS & CULTURAL DIFFERENCES

a. To know the rules and customs should help the tenant to understand what the neighbors might expect of him/her or why they behave the way they do. It is the key to a pleasant living surrounding.

b. Germans generally live a clean and quiet life at home. Sweeping the sidewalks and sometimes even the streets very early on Saturday mornings is not uncommon at all, especially in the smaller towns in Germany. Furthermore, the windows of a house are cleaned at least once during all four seasons, not only to ensure a good look outside but also to prevent dirt from washing down on the paint when it rains.

c. It is against German law to wash cars on the street unless no other cleaning compounds are used than just pure water.

d. Sundays are considered a day of rest. Generally shops are closed. Noise and work should be avoided on Sundays, including household chores and washing and working on cars. Loud music and barking dogs on balconies are the best way to ruin a good relationship with a neighbor. For even during the week there are so-called quiet hours. Violating quiet hours may result in an administrative fine. The quiet hours slightly vary from State to State.

e. In the State of Rhineland-Palatine the nighttime quiet hours are from 22:00 until 06:00 the following morning. (§ 4 para. 1 LimSchG, “Landes-Lärmimmissionschutzgesetz”, State Law on Noise Pollution) and the quiet hours during the day are from 13:00 until 15:00 (§ 9 para. 1 sentence 2 LimSchG). In other states these hours may even be regulated in county or citiy ordinances but generally involve a time frame from noon to 14:00 and after 22:00 through the next morning at 7:00.

f. Recycling is another big topic in Germany. The trash is separated into different categories and placed into cans accordingly. Most towns have large bins marked "Altpapier" (old paper), "Altglas" (old glass), "Batterien" (batteries), "Dosen" (cans), "Biomüll" (biodegradable). Using the bio container note the following to avoid unpleasant surprises:

- put only compostable material into the bio container
- place the bio container into a shady location
- wrap moist materials in newspaper (use regular newspaper only)
- let the bio container dry off well after collection.

VI. TERMINATION

A. Terminating the Rental Agreement

1. Basic Requirements

a. In residential leases only written termination notices are valid (§ 568 BGB).

b. When the landlord seeks to terminate the lease, he must state the reason for the termination and inform the tenant of his/her right to protest. The tenant never needs to give a reason, except in case of an extraordinary termination (effective immediately). With very few exceptions, a landlord may terminate a rental agreement only for cause. An important exception, however, exists where a tenant lives in one of two apartments in a house and his/her landlord occupies the other apartment because in such a case, no reason needs to be given but if so then the notice period is prolonged by 3 months (§ 573a BGB). Watch out for a clause in the lease abolishing – for the landlord as well as the tenant - the requirement to submit a written specific circumstance IAW § 569 para. 4 and 5 BGB when exercising an extraordinary termination (effective immediately).

c. If the landlord does not provide (in writing) a reason for the termination, the termination is void for lack of compliance with procedural formalities. In such a case the tenant cannot recoup attorney fee if he sought legal advice. Only if the procedural formalities are met, the tenant could get his legal expenses reimbursed, provided the termination notice is successfully attacked upon legal review (BGH NJW 2011, 914).

d. The tenant's notice period is no more than 3 months (§ 573c BGB). The 3-month period applies independent of when the contract was concluded, provided the termination is received on or after June 1, 2005 (Art. 229 § 3 X EGBGB, "Einführungsgesetz zum Bürgerlichen Gesetzbuch", Introductory Act to the (German) Civil Code). The only exception applies were the termination clause has been individually negotiated before September 1, 2001 and, therefore, is not subject to be scrutinized by the rules governing the general terms and conditions of trade ("AGBG"). But remember to look for clauses, temporarily suspending the (ordinary) termination right.

e. The notice period for the landlord's termination may not be shortened to less than the statutory minimum. However, the statutory minimum period for a landlord varies depending on the kind of residential lease and the length of the lease. After 5 and 8 years of occupation by a tenant, the landlord's period to give notice increases to 6 and, finally, 9 months (§ 573c BGB). Note, that the 12-month period for a landlord to give notice in rental agreements concluded before September 1, 2001 (under § 565 BGB old version) may still be considered valid (Börstinghaus NJW 2005, 1900, 1901). Since the German Constitution, the GG ("Grundgesetz" - Basic Law), grants to everybody the right of privacy of the home and emphasis the social

commitment on property, the tenant's interest and the landlord's interest need to be weighed against each other to justify the different termination periods ("asymmetrische Kündigungsfristen").

f. Germans do not move easily. Often they stay in the same area for generations. The law reflects this attitude by providing a variety of balancing mechanisms to ensure a landlord gets a return on his investment and the tenant is protected in a reasonable manner in which he/she can enjoy life "within his/her (own) four walls". A tenant will not move but for a reason, *e.g.*, change of jobs, a bigger family, or a move into a home for the elderly and, therefore, the tenant needs to be able to move out within a short period of time. Often the tenant cannot afford to pay two rents, particularly given the financial obligations at the beginning of a lease. The landlord on the other hand primarily uses the premises for its economic value. The landlord's termination notice forces the tenant to give up his/her social integration into the neighborhood.

g. The landlord may terminate the entire lease contract or limit his termination to parts of the premises (§ 573b BGB).

h. Notice periods for landlord termination of residential leases which are not let to a family for permanent use or/and where the landlord lives in the premises as well differ considerably from the above standard periods (§ 549 and § 573c BGB):

(i) If the landlord lives in the apartment as well, he can give a notice of termination by the 15th of the month to be effective on the last day of that month (§ 573d BGB).
(ii) If the landlord lives in one of the two apartments himself § 573a BGB applies and, therefore, no reason needs to be given but the landlord's statutory termination period is prolonged by 3 months.

i. Since Germany generally does not follow the mailbox rule, the termination notice is to be received on or before the third working day of a month to become effective at the end of the second month following the month of receipt of the notification. Note, that by definition Sundays and official German holidays are no working days (§ 193 BGB). Saturdays are only considered no working days if a Saturday would be the day on which the deadline expires, *i.e.*, the 3rd working day (BGH NJW 2005, 2154).

j. Example: A soldier and his/her dependents moved into an apartment building after September 1, 2001. They plan to move out and, therefore, sent a termination notice to the landlord. The landlord receives the notice on April 4th (the 3rd working day because the month started with a weekend: Saturday (1st day: 04/01), Sunday (doesn't count), Monday (2nd day: 04/03), Tuesday (3rd day: 04/04). The termination will be effective on June 30th. If the April 4th had been the 4th working day, the termination would become effective on July 31st. In case the 3rd working day would have been a Saturday (Thursday, 1st day: 04/01), the termination period would be prolonged till Monday (3rd day: 04/05), April 5th.

2. Termination Clause and Termination Agreement

a. Even though the landlord shall not shorten the statutory minimum period for a termination, there are two exceptions to that rule. Both parties can agree on an early termination either upfront in their contract (b.) or after the fact (d.)

b. Firstly, the tenant is free to put a termination clause in the rental agreement that allows him/her to terminate the lease even before the statutory minimum period is up. The tenant does not have to wait the ordinary 3 months. Particularly in cases where a PCS move occurs, the soldiers will seldom have the time to plan exactly for his/her leave. Moreover, the soldier might be required to move into the barracks or government controlled housing for other reasons. Therefore, the tenant should insist on a special termination clause in the rental agreement.

c. Usually the HRO should talk to the landlord and convince the landlord of the necessity of such a special termination clause. If the contract has been already signed and the landlord refuses to agree to a modification, an ordinary termination may be threatened and the tenant should start looking for another apartment up for rental. A possible termination clause may be phrased as follows but please note, that such a termination clause is a flat one and does not allow a 3-business-day extension:

AE Form 210-50-J-R, SEP 01:

- The rental agreement can be terminated any time in compliance with statutory notice periods. In addition, the tenant is granted the right to terminate the rental agreement by advance notice of ___ months effective the last day of the calendar month under the following conditions: a) transferring to a new duty station, b) the government demands immediate occupancy of US Government controlled accommodations no later than the effective date of termination, or c) unforeseen emergencies, retirement, or the early return of family members. Termination has to be in writing and may be sent by registered mail.
- Das Mietverhältnis kann jederzeit unter Einhaltung der gesetzlichen Fristen gekündigt werden. Darüber hinaus wird dem Mieter das Recht eingeräumt, den Mietvertrag mit einer Frist von __ Monaten unter den folgenden Bedingungen zu kündigen: a) militärischer Versetzung, b) die US-Regierung fordert den unverzüglichen Bezug einer Dienstwohnung bis spätestens zum Kündigungstermin oder c) unvorhergesehene Notfälle, Pensionierung oder die vorzeitige Rückkehr der Familienangehörigen. Die Kündigung hat schriftlich zu erfolgen und kann mit Einschreiben erfolgen.

USAFE Form 291a, 20030601 (EF-V1):

- This contract may be terminated by the tenant giving the landlord a minimum of 15 days written notice of an unscheduled PCS, or a minimum of 30 days written notice when the tenant is moving into government or other economy quarters. The landlord's right to rental payments will cease the day following the tenant's vacating the premises.
- Dieser Vertrag kann seitens des Mieters schriftlich gekündigt werden. Im Falle einer außerplanmäßigen Versetzung ist der Mieter gehalten, dem Vermieter die Kündigung unter Einhaltung einer Frist von

> mindestens 15 Tagen schriftlich zugehen zu lassen. Bei Bezug einer Regierungswohnung bzw. einer anderen, nicht staatlich kontrollierten Wohnung, gilt eine Kündigungsfrist von mindestens 30 Tagen. In diesen Fällen endet das Recht des Vermieters auf Mietzahlung am Tage nach dem Auszug aus der Wohnung.

d. Secondly, the tenant and the landlord are free to enter into a termination agreement at any time. If all parties can agree on the issues, they are not bound by the statutory minimum period for a termination. However, it is rather risky to rely on such a happy ending. These cases happen only too rarely.

3. Ordinary Termination (for Cause) § 573 BGB)

a. An ordinary termination by the landlord requires a cause:

- continued use of the premises in a manner violative of the rental agreement. Note, a prior warning notice by the landlord is not always required (BGH NJW 2008, 508), or
- existence of a compelling personal need for the premises because the landlord himself or a member of his/her family or a nice/nephew need to move in (BGH NJW 2010, 1290; LG Frankfurt/M. NJW 2011, 3526). While a civil-law partnership ("GbR") can claim personal need for its members, a firm ("Personengesellschaft") cannot (BGH NJW-Spezial 2011, 194, referring to Judgment of December 15, 2010, BGH VIII ZR 210/10). A landlord's mere wish to live in his/her own home is not sufficient cause for an eviction. Furthermore, the landlord needs to inform the tenant of any lapse of the personal need if it becomes apparent BEFORE the end of the termination period (BGH NJW 2006, 220), or
- prevention of adequate economic utilization and thereof resulting severe disadvantages to the landlord, *e.g.*, the landlord may also terminate the lease in an old building in poor condition which is uneconomically repairable and must be torn down. Yet, the possibilities to obtain a higher rent or the mere fact of an upcoming sale of premises (without a severe disadvantage demonstrated) do not constitute good reason.

b. Only the reasons given in the landlord's termination notice will be considered, when determining whether there was a good reason. Additional reasons will only be excepted if they occurred after the fact. Therefore, the landlord is prevented from suddenly coming up with other reasons to justify his termination notice if they had been in existence before he sent his termination notice.

c. Rental agreements for a fixed term may not be terminated early by ordinary termination notice at all, unless the parties enter into a termination agreement (§ 542 BGB). The biggest myth that exists is that a tenant just needs to present three potential tenants that are willing to rent the premises and if the landlord refuses to pick one, the tenant is no longer bound by the rental agreement. This is completely wrong. Instead the tenant may seek rescue to a legal trick. The tenant may request the landlord's permission to sublease the apartment to reduce his/her loss (§ 540 BGB). The tenant needs to keep in mind, he/she will remain responsible for the rent obligation and additionally responsible for some acts of the sub-tenant. However, the landlord usually does not favor to have someone living in the apartment whom he/she does not know and to whom no contractual relationship exists. Therefore, the landlord often withholds

his/her permission and if that proves to be unreasonably given the factual situation, the tenant may terminate the rental agreement according to the general rules. However, the tenant has to reveal a lot of information about the potential sub-tenant, but unlike in commercial sublets does not have to reveal the rent charged (BGH NJW 2007, 288).

4. Extraordinary Termination (effective immediately) (§ 543 and § 569 BGB)

a. In order for an extraordinary termination to be effective immediately, it has to be unreasonably for a party to be expected to continue the lease because of extraordinary circumstances, which have to be stated in the termination notice or else it cannot be effective.

b. The extraordinary circumstances are exclusively defined in the rental provisions of the Code, preventing the landlord from inventing new ones (§ 569 para 5 BGB).

- serious offenses, threats, or assaults are committed
- one party persistently disturbances the peace of the house
- the landlord does not grant in time or deprives the tenant access and/or usage of the premises. The burden of proof is on the landlord.
- the tenant cannot exercise his/her extraordinary termination right, if he/she knew or should have known at the time of concluding the lease contract that this problem exists
- the tenant can always exercise his/her extraordinary termination right if living in the premises constitutes a substantial threat to the tenant's health
- the tenant violates the landlord's rights unreasonably by neglect of due care with respect to the premises and thereby exposing it to unreasonable danger
- if the extraordinary circumstance result from the violation of a contractual duty in the lease contract, the landlord has to give first a warning notice with an adequate deadline to cure the violation before he will be allowed to send a termination notice. However, no warning notice is required, where
  - (i) a deadline would be futile
  - (ii) after weighing both parties' interests, an immediate termination is justified due to special circumstances
  - (iii) the tenant defaults on the rent payments as defined in § 543 para. 2 No. 3 BGB.
- the tenant fails to pay the rent or a substantial amount of the rent (usually amounting to one-month's rent) for a consecutive period of two months or the arrears amount to a sum equal to a two months' rent (§ 543 para. 2 No. 3 BGB) (see also, BGH BeckRS 2008, 20020).
  - (i) the landlord cannot terminate the lease if he receives the rent before the tenant receives his termination notice
  - (ii) the landlord's termination notice becomes invalid if the tenant has the right to set off a claim against the rent and he exercises that right immediately after receipt of the termination notice
  - (iii) the landlord's termination notice also becomes invalid if the tenant actually pays the rent due within the first two months following the filing of a lawsuit for eviction against him/her or if a public agency or institution legally obligates itself

to pay the rent in full. Yet this exception does not apply if it had been already used within the previous two years (§ 569 para. 3 No. 2 sentence 2 BGB).

- if the landlord has obtained a judgment against the tenant for his/her agreement to a rent increased, the landlord has to give the tenant two months to comply with it before he can base his termination notice on the tenant's non-payment of rent due IAW § 543 para. 2 No. 3 BGB. However, this does not apply if the landlord can base his termination notice on the non-payment of past rent due (not just the increased amount) as defined in § 543 para. 2 No. 3 BGB.
- Courts allow a so-called "Monte Carlo Settlement" in an eviction procedure, according to which the landlord allows the tenant to stay in the rental unit if the tenant pays off the rent arrears in installments but must move out if one installment payment is missed (BGH NJW 2010, 859).

c. The reasons giving rise to an extraordinary termination may also be used for an ordinary termination (for cause), excluding the right to render the termination ineffective by paying the overdue rent, unless the tenant can demonstrate that the non-payment was not due to his fault (BGH NZM 2005, 334). Consequently, if the landlord does not give an extraordinary termination notice effective immediately under § 543 para. 2 No. 3 BGB but instead gives an ordinary termination notice (for cause) due to the non-payment of rent, any payment thereafter will no longer revive the contract, depriving the tenant of the cure provided under § 543 para. 2 sentence 2 BGB (BGH NJW 2007, 428).

d. If the rent is consistently paid late (*i.e.*, later than the 3rd business day of the month), even after the landlord's warning notice, such a continued violation of the rental terms can give rise to an extraordinary termination or an ordinary termination (for cause) (BGH NJW 2011, 2201; BGH 2011, 2570).

5. Extraordinary Termination (with statutory notice period)

a. See, no termination by death.

b. The termination will not be effective immediately.

6. Termination upon creating Condominiums

a. Once an apartment house is turned into condominiums, the purchaser of such a condominium is prevented from exercising his/her termination right as long as it is based on personal own need or his/her intent to resell for three years following the purchase. Moreover, the then applicable statutory termination period will be added to the three-year period (§ 577a BGB), *i.e.*, at least 3 years and 3 months. However, § 577a BGB is interpreted narrowly and does not prevent a termination for compelling reasons similar to personal need (BGH NJW 2009, 1808).

b. Each German State Government is authorized to pass regulations extending this deadline up to 10 years. However, such a regulation has to be renewed every two years.

7. Tenant's Right to Protest

a. According to § 574b BGB, the tenant may protest the termination no later than 2 months before the lease terminates on two grounds. The tenant can either dispute the stated reasons for the termination or claim a case of (social) hardship, *e.g.*, adequate substitute housing cannot be obtained under reasonable conditions like in cases of families with numerous children. Any clauses in the residential lease contract undermining that standard to the tenant's detriment are void (§ 574 para. 4 BGB)

b. § 574 para. 1 BGB reads as follows: "The tenant may protest the termination of a lease and request a continuation of the lease, if the termination of the lease would constitute a hardship for the tenant, his family, or a dependent of his household, which cannot be justified even considering the proper interests of the landlord. This does not apply if circumstances exist, allowing the landlord to give an extraordinary termination notice without a statutory notice period."

c. Only the reasons mentioned in the termination notice will be considered. The landlord is not allowed to bring additional reasons thereafter, unless the reason arose after the notice was sent.

d. Yet, any protest is precluded where:

- a fixed-term lease exists
- premises have been let only for temporary use, such as a holiday apartment
- the tenant has given notice of termination
- an extraordinary termination without statutory notice against the tenant is justified

8. No Termination by Death or Destruction

a. A tenant's death does not terminate the lease (§ 563 BGB). By operation of law and in the priority listed, the following persons become a party to the rental agreement on condition that there had been a joint household:

- surviving spouse
- children and/or a partner of the same or opposite sex
- children and/or other family members
- children and/or any other person (if there was more to it than just a joint household)
- the tenant's heirs become under the German universal succession right a party to the rental agreement (§ 564 BGB), *e.g.*, where the soldier's German parents-in law decease, that soldier's spouse becomes a party to the rental agreement.

b. Within one month after they have learnt of the tenant's death, persons in the joint household can declare they do not want to become a party to the contract. The tenant's heirs do not have that option. If they "inherit" the contract, they may, however, exercise an extraordinary termination right (with statutory notice period).

c. Within one month after persons in the joint household have taken over the lease contract the landlord may terminate by extraordinary termination (with statutory notice period) for a reason (§ 563 para. 4 BGB). Where the tenant's heirs take over the contract, the landlord may terminate the lease within a month by extraordinary termination (with statutory notice period) for no reason (§ 564 BGB).

d. The lease continues even if the building burns down. There is no duty to rebuild a building that is destroyed, even if it was insured. Yet, the tenant has the right to withhold the rent. However, that scenario can be contracted away in the rental agreement.

9. Eviction and Holdover Tenant

a. If a judgment orders the tenant to vacate the apartment, the tenant may nevertheless be granted a reasonable time for vacating the premises, either at the tenant's request, made at least as a precaution during the court procedure or upon the court's own motion according to § 721 and § 794a ZPO. A request for extension can also be filed in writing with the court no later than 2 weeks prior to expiration of the stated period for vacating the apartment.

b. However, the landlord will be entitled to a compensation for loss of usage. The amount claimed could be the agreed amount of rent or the rent, which is customary in the locality for comparable apartments (§ 546a BGB). In addition to compensation for loss of usage, the landlord will also be entitled to claim damages if the tenant continues to occupy the apartment after expiration of the vacating time (§ 571 BGB).

c. Even though only one spouse signed the rental agreement, an eviction order will be necessary against both spouses because spouses are co-possessors of the apartment (BGH NJW 2004, 3041). The same is true for an unmarried partner residing with the tenant (BGH NJW 2008, 1959).

d. If the landlord evicts the tenant without a proper court order and in his absence, such illegal action will subject him to a claim for substantial damages, particularly if he did not inventory and failed to store the tenant's property properly (BGH NJW 2010, 3434).

B. Statute of Limitations

1. General Rule

a. The German Statute of Limitation (SoL) concerning civil claims is incorporated in the BGB, too. According to § 199 BGB the period of limitation starts with the end of the year in which

(1) the claim arose and
(2) the creditor knew about the circumstances giving rise to the claim as well as the identity of the debtor or without gross negligence should have gained knowledge thereof.

b. If the debtor wants to allege that the creditor's claim is time-barred, he has the burden of proof to demonstrate that the creditor gross negligently failed to obtain the above-mentioned information sooner, thereby leading to an earlier start of the limitation period. Absent gross negligence the creditor's maximum deadline for obtaining the information is often 10 years (§ 199 para. 4 BGB) or even longer. Yet, once the debtor possesses the information he must commence some action against the debtor at the earlier of either the end of the SoL or the end of the applicable maximum deadline or lose his claim.

c. The SoL distinguishes between a mere suspension (§ 208 BGB) and an actual new beginning (§ 212 BGB) of the limitation. Whereas a suspension, like a granted delay, only delays the time before the claim is tolled, a new beginning lets the full period begin anew. Negotiations about the claim as well as a court procedure, *e.g.*, payment order, are merely considered suspensions. The claim will be time barred at earliest 3 months after the suspension ended, *i.e.*, the negotiations failed. However, an enforcement procedure lets the full period always begin anew, just like an acknowledgment of the claim by the debtor.

2. Lapse of Time

a. The general SoL for a claim is 3 years (§ 195 BGB).

b. Once the landlord has assumed possession of the apartment vacated, he has only 6 months to pursue a claim for damages against the tenant (§ 548 BGB). The same reasoning applies in situations where the landlord assumes possession of the apartment before the end of the contractual period (BGH NJW 2006, 1588). Moreover, § 548 BGB does not only apply to the contractual party but may also protect members of his/her household (BGH NJW 2006, 2399). The recording of the damages on the inventory form normally is not considered a tenant's acknowledgment of obligation to pay damages and a landlord's letter asserting his claim during the 6-month period will not toll the SoL.

c. By contrast, a landlord has 3 years to pursue his claim for rental payments against the tenant. Exceptionally, the same is true for utilities if due to no fault of the landlord his properly presented "final" utility bill needs to be correct (LG Düsseldorf NJW 2011, 688). The period starts with the end of the year during which the claim for payments arose.

d. As long as the landlord has not repaid the rental security deposit, he may at any time set off that amount against his claim, even if the claim would be otherwise time barred.

e. Example: The landlord assumes possession of the premises on December 31, 2012. A claim for damages is barred on July 1, 2013. A claim for unpaid rent is barred on January 1, 2016. The landlord assumes possession of the premises on January 1, 2013. A claim for damages is barred on July 2, 2013. A claim for unpaid rent is barred on January 1, 2017!

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VII. ANNEX

- Ventilation of Housing

1. Due to the type of construction used in Germany, incomplete and improper ventilation may cause mold to grow on walls and on furniture. Mold can be responsible for irritant and allergic reactions. Wet weather combined with closed windows causes walls to sweat, forming mildew and mold.

2. Mold is everywhere because it's part of the natural environment. The key to mold's growth is moisture. Controlling mold is a matter of controlling moisture. Plainly put, if there's a mold problem, it starts with moisture – and that must be stopped before mold can be cleaned and controlled. Once the moisture problem is cured, it is very likely that the mold won't come back.

3. The following ventilation tips are provided to assist occupants in proper ventilation and preventing mildew/mold build-up:

a. complete ventilation for a minimum of 15 minutes daily.

b. Cross ventilation is necessary so interior doors must be opened along with windows on opposing sides.

c. Kitchen doors should be closed, if kitchen is being used.

d. The bathroom door should be closed during showers or baths. If you have an exhaust fan it should be turned on while bathing. If there is no exhaust van the window should be ajar to let humid air out.

e. The bathroom door should be open over night.

f. Furniture should not be placed against the wall. Move furniture 6 inches (= 15 centimeters) away from the wall so there is air flowing between them.

g. During winter months, the rooms on the north side of your house are colder. Make sure those rooms are heated just a little more than the rooms facing south.

4. What to do if the walls are already damp:

a. First solve the moisture problem. Then scrub the mold off hard surfaces with detergent and water and dry completely.

b. Open windows wide so there will be a draft. Leave windows open for approximately 10 minutes. Turn up the thermostat, by increasing the temperature in the air will suck out the moisture from the walls.

c. After 3 to 4 hours, the air will be filled with water again. Open the windows again. You have to exchange the water filled air with dry air from outside. The cooler air has to be warmed again. Repeat the procedure. Follow this process every day for about two weeks. The walls should dry out.

5. Consider buying a hygrometer (don't confuse it with a hydrometer). It's an instrument used for measuring the moisture. Humidifying a room at 45% or more can cause mold. If the damage has been done and you need an expert opinion to build a case, you can ask the German Federal Association for Mold ("Bundesverband für Schimmelpilzsanierung e.V.") for help at http://www.bss-schimmelpilz.de.

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